

FILED
U.S. DIST. COURT
MIDDLE DIST. OF LA.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF LOUISIANA

SEP 28 PM 3:03

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
SDI OF B.R. - HOOPER ROAD, LLC)
d/b/a/ SONIC DRIVE INN,)
)
Defendant.)
_____)

SIGN PD
by DEPUTY CLERK

CIVIL ACTION NO. 01CV819 D2

COMPLAINT
JURY TRIAL

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of sex and race, and to provide appropriate relief to Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel and Julia Cook, the Charging Parties, and all other persons similarly situated, who were adversely affected by such practices. The Commission alleges that female employees of Defendant were sexually harassed by management officials employed by Defendant, SDI of B.R. - Hooper Road, LLC, d/b/a Sonic Drive Inn, (the "Employer" or "Defendant"). The Commission also alleges that Sarah McDaniel and Julia Cook were retaliated against by being demoted and discharged, respectively, for complaining of the sexual harassment. Further, as a result of the sexual harassment, the conditions of their employment were so intolerable that Atkinson, Theriot, S. McDaniel, and C. McDaniel were forced to resign their positions with the Defendant. The Commission also alleges that Black and male applicants for the position of Car Hop were denied employment with the Defendant because of their race and sex.

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JP, Wauer

The Commission also alleges that Defendant failed to follow Federal regulatory record keeping requirements and failed to post the required poster notifying employees and applicants of their rights under Federal laws prohibiting employment discrimination.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. See § 2000e-5(f)(1) and (3) ("Title VII") and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Middle District of Louisiana.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, SDI of B.R. - Hooper Road, LLC, d/b/a Sonic Drive Inn (the "Employer"), was doing business in the State of Louisiana and the City of Baton Rouge, and continuously had at least 15 employees.

5. At all relevant times, Defendant Employer was an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel and Julia Cook (“Claimants”) filed charges with the Commission alleging violations of Title VII by Defendant Employer. All conditions precedent to the institution of this lawsuit have been fulfilled.

7. Since at least June 1998, Defendant Employer has engaged in unlawful employment practices at its Baton Rouge, Louisiana location, in violation of Section 703(a)(1)and(2) and 704(a) of Title VII, 42 U.S.C. § 2000e-2(a)(1)and(2) and 2000e-3(a). Said unlawful employment practices were committed against Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel, Julia Cook, and other similarly situated individuals. The unlawful practices consisted of Defendant Employer permitting two of its management officials to sexually harass the claimants, and other similarly situated individuals; and by doing so, creating a sexually offensive work environment. The harassment was so sever and pervasive as to unreasonably interfere with the work of the Claimants and caused the constructive discharge of Atkinson, Theriot, S. McDaniel and C. McDaniel. The unlawful employment practices also consisted of retaliatory conduct in the form of demotion of Sarah McDaniel and discharge of Julia Cook.

8. The effect of the practices complained of in paragraph 7 above has been to deprive Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel and Julia Cook, and other similarly situated individuals, of equal employment opportunities and otherwise adversely affect their status as employees, because of their sex.

9. Since at least June 1998, Defendant Employer has engaged in unlawful employment practices at its Baton Rouge, Louisiana location, in violation of Section 703(a)(1)and(2) of Title VII,

42 U.S.C. § 2000e-2(a)(1)and(2), by denying employment to Black and male applicants for employment as Car Hops.

10. The unlawful employment practices complained of in paragraphs 7 and 10, above were intentional.

11. The unlawful employment practices complained of in paragraphs 7 and 10, above were done with malice or with reckless indifference to the federally protected rights of all affected individuals.

12. Since at least June of 1998, Defendant has failed, in violation of Section 709(c) of Title VII, 42 U.S.C. § 2000e-8(c), to make and preserve records relevant to the determination of whether unlawful employment practices have been or are being committed.

13. Since at least June of 1998, Defendant has failed, in violation of Section 711 of Title VII, 42 U.S.C. § 2000e-10, to post and keep posted notices prepared or approved by the Commission setting forth information regarding Title VII.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its successors, officers, assigns, and all persons in active concert or participation with it, from engaging in sex and race discrimination or discrimination on the basis of retaliation.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities for women, Blacks and males and which eradicate the effects of its past unlawful employment practices.

C. Order Defendant Employer to make whole Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel and Julia Cook and other similarly situated individuals by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to front pay to Tiffany Atkinson, Jaime Theriot, Sarah McDaniel, Celida McDaniel and Julia Cook; and, front pay and/or backpay, as appropriate, to the other similarly situated individuals who were also sexually harassed.

D. Order Defendant Employer to make whole all Black and male applicants who were denied employment because of their race and sex by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including but not limited to front pay to said individuals.

E. Order Defendant Employer to make whole all individuals affected by Defendant's unlawful employment practices by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 7 and 10, above, including job search expenses and medical expenses not covered by the Employer's employee benefit plan.

F. Order Defendant Employer to make whole all individuals affected by Defendant's unlawful employment practices, by providing compensation for past and future non-pecuniary losses resulting from the unlawful practices complained of in paragraphs 7 and 10 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, loss of income, and humiliation, in amounts to be determined at trial.

G. Order Defendant Employer to pay all individuals affected by Defendant's unlawful employment practices punitive damages for its malicious and reckless conduct described in paragraph above, in amounts to be determined at trial.

H. Order Defendant to post and keep posted the notices required by Section 711 of Title VII, 42 U.S.C. § 2000e-10.

I. Order Defendant to make and preserve records required by the Commission pursuant to Section 709(c) Title VII, 42 U.S.C. § 2000e-8(c).

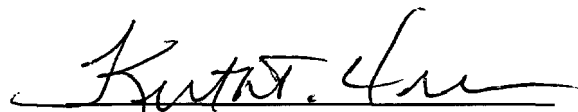
J. Grant such further relief as the Court deems necessary and proper in the public interest.

K. Award the Commission its costs of this action.

JURY TRIAL DEMAND

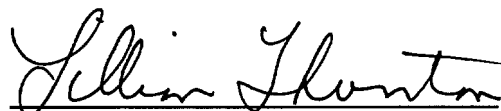
The Commission requests a jury trial on all questions of fact raised by its complaint.

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